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Office Supreme Court U. S.
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JAMES H. McKENNEY,
Clerk.

No. 360

IN THE

Supreme Court of the United States

October Term 1905.

W. H. Carfer, Sheriff Of Wood County, West Virginia, Appellant.

vs.

Charles T. Caldwell.

UPON APPEAL AND WRIT OF ERROR FROM ORDER OF CIRCUIT COURT U. S. NORTHERN DISTRICT W. VA., ON HABEAS CORPUS.

APPEARANCE AND BRIEF OF DEFENDANT, CHARLES T. CALDWELL, WHO APPEARS IN PERSON TO ANSWER SAID MOTION TO BE MADE TO ADVANCE SAID CAUSE UNDER RULE 32 OF THE PRACTICE AND PROCEEDINGS BEFORE SAID COURT.

This defendant admits the right and power of this Court to advance this cause, under the provisions of Rule 32. But it is respectfully submitted that there should be some urgent reason for exercising the privilege granted under said Rule.

This case is based upon proceedings of one branch of the last extinct Legislature of West Virginia. Just before the adjournment of the Legislature the House of Delegates passed a resolution, (not a joint resolution to be concurred in by the Senate), authorizing the speaker of the said House of Delegates to appoint a committee of three to investigate charges preferred by the then Governor against himself.

The next Legislature will convene about the 15th of January, 1907, as West Virginia Legislatures meet biennially only. The last

Legislature unlike the Christians will never meet again (and I presume the people are thankful they will not).

A joint resolution of both Houses of the Legislature, when passed becomes a law, but the resolution of one branch or the other alone is not a law, and, inasmuch as there is no Legislature in West Virginia until the year 1907, there is no public demand or necessity for advancing on the trial docket in this Honorable Court the argument and submission of the present case.

The resistance of the motion to advance said cause on the docket is not for the purpose of delay, but for four distinct reasons:

1. Because there is no public demand for the speedy hearing of the case.

2. Because this Court will have ample time to hear this case as it arises regularly on the docket where it belongs before the convening of the next Legislature in West Virginia; ample time for the alleged committee to hear all the evidence it may desire or wish at $4.00 per day each, etc., providing it has lawful authority to do so.

3. Because this defendant, who is a practicing attorney in the various Courts, State and Federal, has made arrangements professionally which will prevent his speedy and proper preparation for his defense on the matters arising on the writ of error and appeal in this case, out of its regular order on the docket of this Honorable Court.

4. The term of office of the then Governor, who preferred charges against himself to the House of Delegates, expired within a few days after his self accusation, and he is now a very private citizen, and the probabilities are he will occupy his present distinguished position so long as the mind of man runneth not to the contrary, and he will thus become a permanent common law citizen.

For the foregoing and other reasons, not assigned for the want of space and time to enumerate them, we submit that the motion to advance said cause on the trial docket should be refused.

Respectfully submitted.

Chas. T. Caldwell

Appellee Pro Se

Counsel